No. 98-6322-CFH Title: Antonio Tonton Slack, Petitioner
v.
Eldon McDaniel, Warden, et al.

Docketed: October 6, 1998 Court: United States Court of Appeals for the Ninth Circuit

Entry	Date	Proceedings and Orders
	Oct 5 1998	Petition for writ of certiorari and motion for leave to proceed in forma pauperis filed. (Response due November 5, 1998)
	Oct 30 1998	Waiver of right of respondents Eldon McDaniel, Warden, et al. to respond filed.
	Nov 5 1998	DISTRIBUTED. November 25, 1998
	Nov 12 1998	Response requested.
	Dec 10 1998	Brief of respondents Eldon McDaniel, Warden, et al. in opposition filed.
	Dec 16 1998	Reply brief of petitioner Antonio T. Slack filed.
	Dec 31 1998	REDISTRIBUTED. January 15, 1999
	Jan 19 1999	REDISTRIBUTED. January 22, 1999
	Feb 12 1999	REDISTRIBUTED. February 19, 1999
	Feb 22 1999	Petition GRANTED. limited to the following question: If a person's petition for habeas corpus under 28 U. S. C. Sec. 2254 is dismissed for failure to exhaust state remedies and he subsequently exhausts his state remedies and refiles the Sec. 2254 petition, are claims included within that petition that were not included within his initial Sec. 2254 filing "second or successive" habeas applications? SET FOR ARGUMENT October 4, 1999. **********
	Mar 10 1999	Motion of petitioner for appointment of counsel filed.
	Mar 29 1999	DISTRIBUTED. April 2, 1999 (Page 16)
	Apr 1 1999	Joint appendix filed.
	Apr 2 1999	Order extending time to file brief of petitioner on the merits until April 22, 1999.
	Apr 5 1999	Motion for appointment of counsel GRANTED and it is ordered that Michael Pescetta, Esquire, of Las Vegas, Nevada, is appointed to serve as counsel for the petitioner in this case.
	Apr 21 1999	Brief amicus curiae of Rutherford Institute filed.
	Apr 22 1999	Brief amici curiae of National Association of Criminal Defense Lawyers, et al. filed.
	Apr 22 1999	Brief of petitioner Antonio T. Slack filed.
	May 11 1999	Order extending time for filing resondents' brief on the merits to and including June 21, 1999.
	Jun 21 1999	Brief of respondents Eldon McDaniel, Warden, et al. filed.
	Jun 21 1999	Brief amici curiae of California, et al. filed.
	Jul 20 1999	Application (99A86) to extend time to file petitioner's reply brief on the merits, submitted to Justice O'Connor.
	Jul 22 1999	Application (99A86) granted by Justice O'Connor extending the time to file until August 2, 1999.
	Aug 2 1999	Reply brief of petitioner Antonio T. Slack filed.

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Entry	Date	Proceedings and Orders
	Aug 13 1999	CIRCULATED.
	Oct 4 1999	ARGUED.
	Oct 18 1999	This case is restored to the calendar for reargument. The parties are directed to file supplemental briefs notto exceed 25 pages addressing the following questions: (1) Do the provisions of AEDPA, specifically including 28 U.S.C. Sec. 2253 (c) and 28 U.S.C. Sec. 2244 (b), control the proceedings on appeal? (2) If AEDPA does control the proceedings on appeal, may a certificate of appealability issue under 28 U.S.C. Sec. 2253 (c)? Briefs are to be filed with the Clerk and served upon opposing parties on or before 3 p.m., Wednesday, December 15, 1999. Reply briefs, if any, not to exceed 10 pages are to be filed with the Clerk and served upon opposing parties on or before 3 p.m., Friday, January 14, 2000. The Solicitor General is invited to file a brief, not to exceed 25 pages, expressing the views of the United States. Any brief as amicus curiae, not to exceed 15 pages, may be filed with the Clerk and served upon the parties on or before 3 p.m., Wednesday, December 15, 1999. Rule 29.2 does not apply.
	Dec 8 1999	Record filed.
	Dec 10 1999	Supplemental brief of respondents E.K. McDaniel, Warden, et al. filed.
	Dec 14 1999	Brief amici curiae of California, et al. filed.
	Dec 14 1999	Brief amicus curiae of Criminal Justice Legal Foundation filed.
	Dec 15 1999	Supplemental brief of petitioner Antonio T. Slack filed.
	Dec 15 1999	Brief amicus curiae of United States filed.
	Dec 22 1999	Motion of Solicitor General for leave to participate in oral argument as amicus curiae and for divided argument filed.
	Jan 7 2000	SET FOR REARGUMENT ON MARCH 29, 2000.
	Jan 12 2000	Supplemental brief of respondents filed.
	Jan 14 2000	Reply brief of petitioner Antonio T. Slack (supplemental) filed.
	Jan 18 2000	Motion of Solicitor General for leave to participate in oral argument as amicus curiae and for divided argument GRANTED.
	Mar 29 2000	ARGUED.

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